



STATE OF DELAWARE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY
DIVISION OF STATE POLICE
P.O. Box 430
DOVER, DELAWARE 19903
September 13, 2019

Mr. Jonathan Rudenberg
MuckRock News
DEPT MR 63166
411A Highland Ave
Somerville, MA 02144-2516

RE: 63166-78121479

Dear Mr. Rudenberg:

By letter you made a request under the Delaware Freedom of Information Act (FOIA) for: "Any written or digital records of any disciplinary history (including but not limited to complaints, commendations, awards, promotions, or demotions) regarding Roger Cresto of the Delaware State Police."

The Division of the Delaware State Police (DSP) has reviewed your request and determined that your request(s) are exempt under all of the following exemptions:

First, any records are exempt as they are part of personnel, medical or pupil file, the disclosure of which would constitute an invasion of personal privacy, under this legislation or under any State or federal law as it relates to personal privacy; 29 Del. C. § 10002(l)(1). Second, the records you have requested are exempt from disclosure pursuant to 29 Del. C. § 10002(l)(6). Section 10002(l)(6) of title 29 of the Delaware Code provides that records exempted from public disclosure by statute or common law are not "public records." 29 Del. C. § 10002(l)(6); Section 11 Del. C. 92 of the Delaware Code provides that "all records compiled as a result of any investigation subject to the provisions of this chapter and/or a contractual disciplinary grievance procedure shall be and remain confidential and shall not be released to the public." 92 Del. C. 9200 (c)(12). Additionally, it provides that "no law-enforcement agency shall be required to disclose in any civil proceeding, other than those brought by a citizen against a law-enforcement officer alleging that the officer breached the officer's official duties and that such breach resulted in injury or other damage to the citizen, any: (1) Personnel file; or (2) Internal affairs investigatory file compiled in connection with a law-enforcement officer under investigation or subjected to questioning for any reason which could lead to disciplinary action, demotion, or dismissal." 92 Del. C. 9200(d). Therefore, DSP is not permitted by statute to disclose the data you have requested. Finally, DSP further objects on the basis that the request appears to originate from out of the State, public bodies are only required to comply with FOIA when the requesting party is a citizen of the State of Delaware. See *McBurney v. Young*, 569 U.S. 221 (2013); see also Del. Op. of the Attn'y Gen. 16-IB20 (Sept. 30, 2016), unless a valid Delaware address for the requester is provided. The Division of the Delaware State Police considers your FOIA request closed.

Sincerely,

Colonel Nathaniel McQueen, Jr.
Superintendent